

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI**

## **COMPLAINT**

Plaintiff hereby states the following in support of this complaint.

**COUNT I**

1. Plaintiff William M. Brown is an individual, a citizen of the United States, and a resident of Iraq.
2. Defendant is the United States of America.
3. This is an action for the recovery of Federal income tax, penalties, and interest erroneously or illegally assessed and collected. This Court has jurisdiction by reason of 28 U.S.C. § 1346(a)(1).
4. Venue lies in this district under 28 U.S.C. Section 1391(e)(1), because Defendant has offices in this district at the Internal Revenue Service Center, 333 Pershing Rd., Kansas City, Missouri 64108.
5. Recovery is sought of Federal income tax, penalties, and interest for the taxable year ended December 31, 2011 (hereinafter referred to as 2011).

6. On or about April 15, 2012, plaintiff filed a U.S. Individual Income Tax Return, Form 1040, for the year 2011 with the Internal Revenue Service Center at Austin, Texas. This return reported no tax liability for 2011.
7. Plaintiff's return for 2011 was examined by Defendant in 2013. As a result of this examination, Defendant on August 18, 2014 assessed Federal income tax, penalties and interest against Plaintiff for 2011. Plaintiff on April 15 and 28, 2015 paid \$42,861.00 for income tax; \$8,572.20 for an accuracy-related penalty under I.R.C. § 6662; \$4,753.76 for interest for late payment; and \$1,928.74 for penalty for late payment.
8. On or about October 15, 2015, Plaintiff filed Amended U.S. Individual Income Tax Return, Form 1040X (First Amended 2011 Form 1040X) for 2011, with the Internal Revenue Service Center in Austin, Texas, for refund of Federal income tax together with interest and penalties as allowed by law in the total aggregated amount of \$58,116. Plaintiff met the requirements of I.R.C. §§ 6511(a) and 7422(a). A copy of this claim is attached hereto, marked as Exhibit A, and made a part hereof.
9. On or about November 14, 2016, Plaintiff filed a second Amended U.S. Individual Income Tax Return, Form 1040X (Second Amended 2011 Form 1040X) for 2011, with the Internal Revenue Service Center in Austin, Texas, for refund of Federal income tax in the amount of \$42,416, together with interest and penalties as allowed by law. This Second Amended 2011 Form 1040X was filed to account for missing information contained in the First Amended 2011 Form 1040 X filed in 2015. Plaintiff met the requirements of I.R.C. §§ 6511(a) and 7422(a). A copy of this claim is attached hereto, marked as Exhibit B, and made a part hereof.

10. In a letter dated February 10, 2020, Defendant disallowed the claim for refund in the Amended 1040X for 2011 without indicating which amended return it had examined and which amended return it was referring to in denying Plaintiff's claim for refund. Plaintiff has filed this Complaint within the period of limitations prescribed under I.R.C. 6532(a).
11. On or about November 16, 2016, Plaintiff filed Form 843, Claim for Refund and Request for Abatement, for refund of the accuracy-related penalty in the amount of \$8,572.00. A copy of this claim is attached hereto, marked as Exhibit C, and made a part hereof.
12. In a letter dated December 18, 2020, Defendant disallowed the Claim for Refund and Request for Abatement of the accuracy-related penalty. Plaintiff has filed this Complaint within the period of limitations prescribed under I.R.C. 6532(a).
13. During all of 2011, Plaintiff was an employee of Triple Canopy, Inc. Plaintiff was paid \$172,683.00 in 2011 for his work in Iraq.
14. Plaintiff had a tax home in Iraq for the entire year 2011, and he was a bona-fide resident of Iraq for the entire year 2011.
15. Plaintiff has no gross income from Triple Canopy, Inc. in 2011, because his income from Triple Canopy, Inc. was foreign earned income which is excluded from gross income by I.R.C. § 911.
16. For all of 2011, Plaintiff satisfied the bona-fide resident test of Section 911, which allows a "qualified individual" to exclude his foreign earned income from gross income.
17. Plaintiff is a "qualified individual" as defined in Section 911(d)(1), because he had income in a foreign country, was a citizen of the United States, and was a bona-fide resident of Iraq for an uninterrupted period which includes the entire taxable year 2011.
18. Prior to 2011, Plaintiff, his father, and his sibling inherited a house.

19. The house was sold in 2011, and the proceeds were evenly divided among Plaintiff, his father, and his sibling.
20. In calculating his share of the gain on the sale of the house for tax purposes in 2011, Plaintiff is entitled to a tax basis of \$72,000.00, which amount will reduce his gain on the sale of the house accordingly.
21. Plaintiff has overpaid his federal income tax for 2011 in the amount of \$42,861.00 for income tax; \$8,572.20 for an accuracy-related penalty under I.R.C. § 6662; \$4,753.76 for interest for late payment; and \$1,928.74 for penalty for late payment.

Wherefore, Plaintiff demands judgement in the amount of \$42,861.00 for income tax; \$8,572.20 for an accuracy-related penalty under I.R.C. § 6662; \$4,753.76 for interest for late payment; and \$1,928.74 for penalty for late payment, plus interest and costs allowed by law, and such other relief as the Court may deem just, including an award of reasonable litigation costs incurred in this proceeding, under 26 U.S.C. § 7430.

Respectfully submitted,

/s. Matthew L. Hood  
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